Supreme Court, U.S.
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No. 06-663

IN THE

Supreme Court of the United States

TELKOM S.A. LTD.,

Petitioner,

v.

TELCORDIA TECHNOLOGIES, INC.,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Third Circuit

SUPPLEMENTAL BRIEF

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RULE 29.6 DISCLOSURE

Telcordia Technologies, Inc. is a non-governmental party. Telcordia is owned by TTI Holding Corporation I, which is owned by Telcordia Holdings, Inc., which is owned equally by Providence Equity Partners Inc. and Warburg Pincus LLC.

I. INTRODUCTION

In its reply brief, Telkom raises a new argument, asserting that the Court should consider deferring its ruling on the Petition in this case pending the decision in *Sinochem International Co. v. Malaysia International Shipping Corp.*, No. 06-102 (U.S. argued Jan. 9, 2007). (Reply Br. at 7.) Because Telkom raised the argument for the first time in its reply brief, Telcordia has not had an opportunity to respond. Accordingly, Telcordia now files this supplemental brief pursuant to S. Ct. R. 15.8.

II. THIS CASE DOES NOT PRESENT THE SAME QUESTION THAT *SINOCHEM* PRESENTS

This case does not present the same question that *Sinochem* presents. The Court therefore should refuse to delay its ruling on Telkom's Petition.

In *Sinochem*, the district court did not resolve personal jurisdiction before dismissing the suit under the *forum non conveniens* doctrine. The question presented in *Sinochem* is whether the district court had authority to avoid a jurisdictional ruling and dismiss on other grounds:

> Whether a district court must first conclusively establish jurisdiction before dismissing a suit on the ground of *forum non conveniens*?

Pet. for Writ of Cert., *Sinochem*, No. 06-102 (July 21, 2006).

In the present case, by contrast, the district court *did not* avoid a jurisdictional ruling, so the question of its authority to do so did not arise. The district court below expressly held that the case must be dismissed for lack of personal jurisdiction. (Pet. App. 29a-30a.) This definitive jurisdictional ruling accompanied alternative rulings justifying the dismissal on other grounds (*i.e.*, estoppel). (Pet. App. 17a.) This case simply does not present the

question whether a district court can avoid determining personal jurisdiction and dismiss a suit without ever resolving the jurisdictional issue.

Furthermore, because the district court did rule on personal jurisdiction, neither party raised an argument, in the Third Circuit, about whether the district court *needed* to resolve personal jurisdiction. Instead the parties contested whether the definitive jurisdictional ruling that the district court had issued was erroneous. The Third Circuit held that personal jurisdiction did exist and then moved on to consider the district court's alternate grounds for dismissal. There can be no question that the Third Circuit was entitled to resolve jurisdiction before ruling on other issues. That is a wholly different question than the one presented in *Sinochem* – whether a court is entitled to *forego* a jurisdictional ruling and then rule on other issues.

III. CONCLUSION

There is no proper basis for deferring a ruling on Telkom's Petition pending the Court's decision in *Sinochem*. Deferring a ruling would unfairly delay Telcordia's longstanding efforts to obtain relief from Telkom for its breach of contract. The Court should promptly deny Telkom's Petition.

Respectfully submitted,

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